

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ABIMAEL MANSO-DIAZ,	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-192 Erie
	)	
JAMES SHERMAN, Warden,	)	
Defendant.	)	

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on June 20, 2005 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's report and recommendation, filed on January 12, 2006, recommended that Defendant's motion [Doc. No. 10] to dismiss, or in the Alternative, Motion for Summary Judgment be granted and that the complaint be dismissed based upon a failure of the Plaintiff to have exhausted his administrative remedies. The parties were allowed ten (10) days from the date of service to file objections. Plaintiff filed his objections [Doc. No. 18] on January 30, 2006.

After de novo review of the Complaint and the documents in the case, together with the Report and Recommendation, Plaintiff's objections, the following order is entered:

AND NOW, this 1<sup>st</sup> Day of March, 2006, IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss [Doc. #10-1] or, in the alternative, Motion for Summary Judgment [Doc. # 10-2] is GRANTED

The report and recommendation of Magistrate Judge Baxter dated January 30, 2006 is adopted as the opinion of this Court. The Clerk is directed to mark this case "CLOSED."

s/ Sean J. McLaughlin  
United States District Judge

cm: all parties of record .nk